

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

DANIELLE M. LEONE AND JACOB	:	
M. LEONE, individually and as	:	
Plenary co-guardians of the Estate and	:	
Person of CALEB LEONE and	:	
CALEB LEONE, Individually,	:	
	:	
Plaintiffs,	:	
	:	
	:	No. 4:21-cv-00800-MWB
v.	:	
	:	(Honorable Matthew W. Brann)
	:	
RIDDELL, INC., et. al.,	:	
	:	
	:	
Defendants.	:	

**JOINT MOTION TO  
ENLARGE CASE MANAGEMENT DEADLINES AND TRIAL**

Plaintiffs and Defendants jointly move for entry of an Amended Case Management Order extending all pre-trial deadlines and, in support thereof, would respectfully show:

**Introduction**

This product liability action arises from brain injuries allegedly sustained by Caleb Leone (“Caleb”) while participating in the sport of football. Plaintiffs claim these injuries were caused by defects in the design, manufacture, and marketing of the football helmet Caleb wore. Defendants contend that their helmets are neither defective nor the cause of Caleb’s injuries. Establishing the parties’ respective claims and defenses requires testimony from a myriad of fact and expert witnesses and voluminous documentary evidence. The parties have diligently pursued discovery and cooperated in good faith to resolve multiple discovery disputes. Nevertheless, the discovery deadlines and trial date established by the current Case Management Order (the “CMO”), ECF No. 16, have become impractical as a result of unavoidable scheduling conflicts,

difficulties obtaining key medical records from non-party health care providers, and Caleb's recent Multiple Sclerosis ("MS") diagnosis. In light of these developments, the parties respectfully request that the Court vacate the current CMO and enter the proposed Amended Case Management Order presented herewith.

### **Argument**

1. **Timeliness and Diligence.** The CMO requires fact discovery to be conducted diligently and completed by June 15, 2022. ECF No. 16. It also requires that any request to extend that deadline be filed by June 1, 2022. This motion was timely filed on April 12, 2022, and the parties have diligently pursued discovery. Both parties have served initial disclosures, and both have propounded and responded to requests for written discovery. Moreover, plaintiffs Danielle Leone and Jacob Leone have been deposed, several fact-witness depositions have been noticed and/or conducted, and more than sixty (60+) subpoenas have been served on non-parties resulting in the production of thousands of pages of medical records and other documentation.

2. **Good Cause.** Despite the parties' efforts, multiple factors have combined to make the June 15, 2022 fact discovery deadline untenable.

a. First, as a result of scheduling conflicts, including a February/March 2022 trial, plaintiffs' counsel did not present plaintiffs Danielle Leon and Jacob Leon for deposition until March 23 and 25, 2022, less than ninety (90) days prior to the fact discovery deadline.

b. Second, defense counsel has not yet been able to obtain records that may be critically important in the case. A discovery dispute regarding the provision of authorizations for the release of Caleb's pre-incident<sup>1</sup> medical records prevented Defendants from obtaining a

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<sup>1</sup> Some of these records (including brain imaging), pertain to a brain injury and surgical intervention occurring during Caleb's infancy, and may be of critical importance to the issues presented in this case including medical causation.

complete set of Caleb's medical records. On March 30, 2022, after months of good faith negotiations, the parties resolved the dispute by an agreement that will ultimately permit the collection of those records but not within the six weeks remaining in the present discovery period. Moreover, even some of those healthcare providers for whom record releases have been obtained have yet to produce all brain imaging performed on Caleb. Further, Caleb was only recently diagnosed with MS in January 2022, a condition that raises important new medical causation issues. Defendants have not yet been able to obtain records regarding the MS diagnosis and need additional time to obtain those records, explore the new diagnosis, evaluate potential alternative causes, and potentially depose the diagnosing and treating healthcare providers.

c. Third, plaintiffs' counsel has back-to-back trial settings scheduled for May 2, 2022 and May 23, 2022, which will cause them to be largely unavailable for depositions between now and the June 15, 2022 fact discovery deadline.

3. As a consequence of the foregoing, the current June 15, 2022 fact discovery deadline is an obstacle to the parties' abilities to adequately develop their respective claims and defenses. Because all other deadlines in the CMO are premised on the fact discovery period ending June 15, 2022, the parties respectfully request that those deadlines likewise be extended, and that the Court schedule a new trial setting at its convenience commensurate with the proposed deadlines.

#### **Prayer**

WHEREFORE, premises considered and for good cause shown, the parties respectfully request that the Court vacate the current CMO, enter the proposed Amended Case Management Order presented herewith, and set this matter for trial on a date that is convenient for the Court and commensurate with the proposed deadlines.

Dated: April 13, 2022

Respectfully submitted,



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*Counsel for Plaintiffs*

**CERTIFICATE OF CONCURRENCE**

I certify that counsel of record have conferred and concur regarding the relief sought, and jointly move for the same.

  
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Mark P. Burns, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 13, 2022, this document was electronically filed and served on all counsel registered to receive service via the Court's ECF system.

  
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Mark P. Burns, Esq.  
*Counsel for Defendants*